# RULES OF PROCEDURE OF THE SENATE SELECT COMMITTEE TO STUDY LAW ENFORCEMENT UNDERCOVER ACTIVITIES OF COMPONENTS OF THE DEPARTMENT OF JUSTICE

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## RULE 1. CONVENING OF MEETINGS AND HEARINGS

1.1 *Meetings.* The committee shall hold its regular meetings every Wednesday when the Senate is in session. The chairman may call additional meetings or cancel regular meetings. The members of the committee may call special meetings as provided in Senate Rule XXVI(3).

1.2 *Notice.* The committee shall make public announcement of the date, place, and subject matter of any hearing at least one week before its commencement. A hearing may be called on shortened notice if the chairman, with the concurrence of the vice chairman, determines that there is good cause to begin such hearing at an earlier date.

1.3 *Presiding Officer.* The chairman shall preside when present. If the chairman is not present at any meeting or hearing, the vice chairman shall preside. The chairman may designate any member of the committee to preside over the conduct of a meeting or hearing in the absence of the chairman or vice chairman.

## RULE 2. CLOSED SESSIONS AND CONFIDENTIAL MATERIALS

2.1 *Procedure.* All meetings and hearings shall be open to the public unless closed. To close a meeting or hearing or portion thereof, a motion shall be made and seconded to go into closed session to discuss whether the meeting or hearing will concern the matters enumerated in Rule 2.3. Immediately after such discussion the committee shall return to open session and the meeting or hearing may then be closed by a record vote, including proxy votes, in open session of a majority of the members of the committee.

2.2 *Witness Request.* Any witness called for a hearing may submit a written request to the chairman no later than twenty-four hours in advance for his examination to be in closed or open session. The chairman shall inform the committee of any such request, and the committee shall take such action pursuant to Rule 2.1 as it deems appropriate.

2.3 *Closed Session Subjects.* A meeting or hearing or portion thereof may be closed if the matters to be discussed concern: (1) national security; (2) committee staff personnel or internal staff management or procedure; (3) matters tending to reflect adversely on the character or reputation or to invade the privacy of any individuals; (4) matters which will disclose the identity of any informer or undercover law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or (5) other matters enumerated in Senate Rule XXVI(5) (b).

2.4 *Broadcasting.*

(a) *Control.* Any meeting or hearing open to the public may be covered by television, radio, or still photography. Such coverage must be conducted in an orderly and unobtrusive manner, and the presiding officer may for good cause terminate such coverage in whole or in part, or take such other action to control it as the circumstances may warrant.

(b) *Request.* A witness may request of the presiding officer on grounds of distraction, harassment, personal safety, or physical discomfort, that during his testimony cameras, media microphones, and lights shall not be directed at him, and the presiding officer may take such action as he deems appropriate in response to the request.

## RULE 3. QUORUMS AND VOTING

3.1 *Reporting.* Five members shall constitute a quorum for reporting a matter or recommendation to the Senate. A quorum must be physically present at the time of the final vote on reporting.

3.2 *Other Committee Business.* Three members shall constitute a quorum for the conduct of any committee business other than a final vote on reporting, providing a member of the minority is present. One member shall constitute a quorum for hearing testimony.

3.3 *Proxies.* Proxies shall be in writing, and shall be filed with the chief clerk by the absent member or by a member present at the meeting. Proxies shall contain sufficient reference to the pending matter to show that the absent member has been informed of it and has affirmatively requested that he be recorded as voting on it. Proxies shall not be counted towards a quorum.

3.4 *Polling.*

(a) *Subjects.* The committee may poll only (1) internal committee matters including the committee's staff, records, and budget; (2) authorization for steps in the investigation, including the authorization and issuance of subpoenas, applications for immunity orders, and requests for documents from agencies; (3) other committee business, not including a final vote on reporting to the Senate, which has been designated for polling at a meeting.

(b) *Procedure.* The chairman shall circulate polling sheets to each member specifying the matter being polled and the time limit for completion of the poll. If any member so requests, the matter shall be held for meeting rather than being polled. The chief clerk shall keep a record of polls; if the chairman, with the approval of a majority of the members, determines that the polled matter is in one of the areas enumerated in Rule 2.3, the record of the poll shall be confidential. Any member may move at the committee meeting following a poll for a vote on the polled decision.

## RULE 4. SUBPOENAS

4.1 *Authorization.* Subpoenas may be authorized by the committee or by the chairman, and may be issued by the chairman or by any other member designated by him. The chief clerk shall keep a log, and a file, of all subpoenas issued by the committee.

4.2 *Return.* A subpoena duces tecum or order to an agency for documents may be issued whose return shall occur at a time and place other than that of a scheduled hear-

ing. When a return on such a subpoena or order is incomplete or accompanied by an objection, the chairman may convene a meeting or hearing on shortened notice to determine the adequacy of the return and to rule on the objection, or may refer the issues raised by the return for decision by poll of the committee. At a meeting or hearing on such a return, one member shall constitute a quorum.

## RULE 5. HEARINGS

5.1 *Notice.* Witnesses called before the committee shall be given at least 48 hours notice absent a determination by the chairman of extraordinary circumstances, and all witnesses called shall be furnished with a copy of Senate Resolution 350 and of these rules.

5.2 *Oath.* All witnesses who testify to matters of fact shall be sworn unless the committee votes to waive the oath. The chairman, or any member, shall administer the oath.

5.3 *Statement.* Any witness desiring to make an introductory statement shall file 3 copies of such statement with the chairman or clerk of the committee 48 hours in advance of his appearance, unless the chairman and vice chairman determine that there is good cause for a witness's failure to do so. A witness may be required to summarize his or her prepared statement if it exceeds ten minutes.

5.4 *Counsel.*

(a) *Presence.* A witness's counsel shall be permitted to be present during his testimony at any public or closed hearing or deposition or staff interview to advise such witness of his rights; provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the chairman or the committee may rule that representation by counsel from the government, corporation, or association or by counsel representing other witnesses, creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation or association or not representing other witnesses.

(b) *Indigence.* A witness who is unable for economic reasons to obtain counsel may inform the committee at least 48 hours prior to the witness's appearance, and it will endeavor to obtain volunteer counsel for the witness. Such counsel shall be subject solely to the control of the witness and not the committee. Failure to obtain counsel will not excuse the witness from appearing and testifying.

(c) *Conduct.* Counsel shall conduct themselves in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members present, subject such counsel to disciplinary action, which may include warning, censure, or ejection. If counsel is disciplined, the provisions of Rule 5.4(b) for a witness who is unable to obtain new counsel shall apply.

5.5 *Transcript.* An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in closed and public hearings. Upon his request and at his expense, a copy of or access to a copy of a witness's testimony in public or closed session shall be provided to the witness. Upon inspecting his transcript, within a time limit set by the committee clerk a witness may request changes in the transcript to correct errors of transcription, grammatical errors, and obvious errors of fact; the chairman or a staff officer designated by him shall rule on such requests.

5.6 *Impugned Persons.* Any person who believes that evidence presented, or comment made by a member or staff, at a public hearing or at a closed hearing concerning which there have been public reports, tends to impugn his character or adversely affect his reputation may:

(a) file a sworn statement of facts relevant to the evidence or comment, which shall be placed in the hearing record;

(b) request the opportunity to appear personally before the committee to testify in his own behalf; or

(c) submit questions in writing which he requests be used for the cross-examination of witnesses called by the committee. The chairman shall inform the committee of such requests for appearance or cross-examination. If the committee so decides, the requested questions, or paraphrased versions or portions of them, shall be put to the other witnesses by a member or by staff.

5.7 *Additional Witnesses.* Any three members of the committee shall be entitled, upon request made to the chairman, to call additional witnesses or to require the production of documents during at least one day of hearing. Such request must be made before the completion of the hearing or, if subpoenas are required, no later than three days before the completion of the hearing.

## RULE 6. DEPOSITIONS AND EXAMINATION OF RECORDS

6.1 *Notice.* Notices for the taking of depositions shall be authorized and issued by the chairman or by a staff lawyer designated by him. Such notices shall specify a time and place for examination, and the name of the staff lawyer or lawyers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear unless the deposition notice was accompanied by a subpoena authorized by the committee or the chairman.

6.2 *Counsel.* Witnesses may be accompanied at a deposition by counsel to advise them of their rights, subject to the provisions of Rule 5.4.

6.3 *Procedure.* Witnesses shall be examined upon oath administered by a member or an individual authorized by local law to administer oaths. Questions shall be propounded orally by staff lawyers. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the committee staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the chairman of the committee or a member designated by him. If the chairman or designated member overrules the objection, he may refer the matter to the committee or he may order and direct the witness to answer the question, but the committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify after he has been so ordered and directed to answer.

6.4 *Filing.* The committee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy or access to a copy for review. No later than five days thereafter, if a copy is provided the witness shall return it with his or her signature, and the staff may enter the changes, if any, requested by the witness in accordance with Rule 5.5. If the witness fails to return a signed copy the staff shall note on the transcript the date a copy was provided and the failure to return it. The individual ad-

ministering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the committee clerk. Committee staff may stipulate with the witness to changes in this procedure. Objections to errors in this procedure which might be cured if promptly presented are waived unless timely objection thereto is made.

6.5 *Examination of Records.* The committee or the chairman may authorize the staff to inspect locations or systems of records on behalf of the committee.

## RULE 7. PROCEDURES FOR HANDLING OF SENSITIVE OR CONFIDENTIAL MATERIALS

7.1 *Security.* Committee offices shall operate under strict security precautions. The chairman may request the Senate Sergeant at Arms to provide assistance necessary to insure strict security.

7.2 *Sensitive or Confidential Materials.* The chairman may designate categories of sensitive or confidential materials, which shall be segregated in a secure storage area. The chairman may also enter into agreements to obtain materials and information under assurances concerning confidentiality. Each member of the committee shall be notified of such agreements.

7.3 *Access.* Members may designate individuals on their staffs to have access to committee materials subject to the rules concerning nondisclosure applicable to committee staff. Staff access to materials may be limited by the chairman and vice chairman or by staff officers designated by them to protect the confidentiality of materials.

7.4 *Nondisclosure.* No testimony taken including the names of witnesses testifying, or material presented, in depositions or at closed hearings, and no confidential materials or information, shall be made public, in whole or in part or by way of summary, or disclosed to anyone outside the committee and individuals designated on members' staffs, unless authorized by the committee or the chairman. Allegations concerning unauthorized disclosure may be resolved by the committee or may be referred by a majority vote of the committee to the Select Committee on Ethics. The employment of any member of the staff who fails to conform to these rules may be immediately terminated.

## RULE 8. STAFF

8.1 *Detailees and Consultants.* The chairman shall have authority to use on a reimbursable basis, with the prior consent of the Committee on Rules and Administration, the services of personnel of any department or agency of the United States and shall have authority to procure the temporary or intermittent services of individual consultants or organizations.

8.2 *Applicability of Rules.* For purposes of Rules 6 and 7 of these rules, the officers and employees of the Office of Senate Legal Counsel shall be deemed committee staff.

## RULE 9. EFFECTIVE CHANGES IN RULES

9.1 These rules shall become effective upon publication in the Congressional Record. These rules may be modified, amended, or repealed by the committee, provided that all members are present or provide proxies or if a notice in writing of the proposed changes has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. The changes shall become effective immediately upon publication of the changed rule or rules in the Congressional Record, or immediately upon approval of the changes if so resolved by the committee so long as any witnesses who may be effected by the change in rules are provided with them.